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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-49      Legistar #: 20141101

Board of Zoning Appeals Hearing: Monday, October 27, 2014

Property Owner: Christopher Drayton Stone  
48 Brown Avenue  
Marietta, GA 30064

Address: 48 Brown Avenue

Land Lot: 12210      District: 16      Parcel: 0070

Council Ward: 3A      Existing Zoning: R-3 (Residential Single Family 3 units/acre)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to reduce side and rear setback from 20 ft. to 6 ft. [§708.03(C.1.)]
2. Variance to allow for accessory building's footprint to exceed 50% of the principal structure footprint. [§708.03(F.5.)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**View of proposed area for addition at 48 Brown Ave**



**View of area for proposed addition at 48 Brown Ave**





**View of the existing carriage house at 48 Brown Ave**

### **Recommended Action:**

**Approval.** The applicant and property owner, Christopher Stone, is requesting variances to reduce the side and rear yard setback from 20 ft. to 6 ft.; and to allow for an accessory building's foot print to exceed 50% of the principal structure foot print. The applicant is proposing to add storage and a carport to an existing carriage house. The subject property is 0.459 acres, and is zoned R-3 (Single-Family Residential (3 units/acre)), as are the all abutting properties.

The purpose of the addition to the already existing carriage house is to provide accommodations for Mr. Stone's son, who is coming out the Marine Corp in December 2014 after completing a tour of duty in Afghanistan. The existing carriage house already has power, water, and sewer. The addition to the building on the north side of the property will add storage space and carport for Mr. Stone's boats and other vehicles. The proposed addition will complete the applicants plan for the structure, which will be used to house Mr. Stone's son while he attends Kennesaw State University. Architectural renderings have been provided indicating that the new additions will be built in a similar style of the existing house and carriage house.

In Section 703.03, under the temporary/conditional uses allowed by the Director, it states that guest homes and servant quarters are allowed provided "*such structure is located to the rear of the principal structure and no less than 20 feet from any property line and 10 feet from the principal building.*" The already existing carriage is 6 ft. from the side property line and 10 ft. from the rear property line. The addition would continue north on the property following the rear 10 ft. setback and ending 6 ft. from the northerly side yard setback.

In January of 2002, the applicant applied for an administrative variance to reduce the side yard setback from 10 ft. to 8 ft. to build a free standing garage. However, Mr. Stone contends that he always intended for the structure to be the used as a carriage house.

The existing carriage house is over 15 feet in height, and Section 708.03 F (4) states “*accessory structures greater than 15 feet in height, but less than 35 feet in height, must be set back at least 10 feet from the side property line, and must be setback from the rear property line a distance of 30 feet, or a distance equal to the height of the structure, whichever is less.*” However, this regulation was changed in 2003 - after the original administrative variance for the placement of the carriage house was granted.

Also, Section 708.03(F), Accessory structures, states that “*The area of the accessory building’s footprint may not exceed 50% that of the principal structure.*” The proposed carport and storage addition will add 1,370 sq. ft. to the already existing 1,125 sq. ft. carriage house. The total area of the proposed new structure would be 2,495 sq. ft. The area of the principal structure is only 2,968 sq. ft.; and as such a variance would be necessary in order for the addition to be allowed.

Marietta Power & Water has indicated that there is a sewer line that runs along the northern side of the property with a 20 ft. easement (10 ft. on each side). While the sewer line runs primarily on the adjacent neighbor’s property, the 20 ft. easement extends 6 ft. into the subject property. However, there is dense vegetation and trees along that property line, and Marietta Power & Water has determined that the proposed addition would not impact the easement.

The Marietta Fire Department has also reviewed plans for the proposed addition, and has had no objections.

The proposed additions for a carport and storage, and the use of the carriage house as a guest home for Mr. Stone’s son, will not negatively impact the surrounding properties, and as a result, **Staff recommends approval of the requested variances.**